

Group Briefing
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Fraud: Turning the tables on the fraudsters

Fraud, asset misappropriation and money laundering are among the top five economic crimes reported by Irish companies in the past two years. Recouping monies wrongfully dissipated, and even ascertaining the identity of the wrongdoer, can prove particularly difficult in these cases. However, there are a number of injunctive-type measures that can help.

MEASURE	WHAT DOES IT DO?	WHEN MIGHT YOU USE IT?	POINTS TO NOTE
Mareva injunction (freezing order)	Freezes a person's assets (e.g. bank accounts, shares, properties, etc.) up to a fixed amount.	When you are concerned that the person in question may try to put assets out of your reach. In certain circumstances, a worldwide freezing order may be obtained.	You must have grounds for believing that there is a real risk that the person in question will remove or dissipate assets in order to defeat your claim. Mere suspicion is not enough.
Norwich Pharmacal order (NPO)	Directs a third party to reveal the identity of someone suspected of committing a wrong against another party.	When you have been wronged, but you cannot identify the wrongdoer and so cannot bring legal proceedings against them.	You need clear proof of wrongdoing. The Irish courts will only grant an NPO where the only information sought is the identity of the wrongdoer (not information regarding the commission of the wrong).
Imaging order	Directs a party to legal proceedings to hand over certain named devices (e.g. computer, personal mobile, etc.) to the court for forensic imaging. The images are held on file pending the court's decision as to whether the party seeking the order is entitled to inspect the documents.	When you are concerned that data held on computers, phones, etc. may be destroyed pending trial.	This relief is not regularly invoked by the Irish courts. The party against whom the imaging order is sought might argue that it is an invasion of privacy.

This document contains a general summary of developments and is not a complete or definitive statement of the law. Specific legal advice should be obtained where appropriate.

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